

Message Text

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ORIGIN EA-09

INFO OCT-01 ISO-00 L-03 AID-05 IGA-01 ABF-01 FS-01 A-01

COM-02 SSO-00 NSCE-00 USIE-00 INRE-00 CIAE-00 EB-07

FRB-03 INR-07 NSAE-00 TRSE-00 XMB-02 OPIC-03 SP-02

CIEP-01 LAB-04 SIL-01 OMB-01 DODE-00 PM-04 H-02

NSC-05 PA-01 PRS-01 SS-15 OPR-02 /085 R

DRAFTED BY EA/LC:MHENDERSON:MHS

APPROVED BY EA:PCHABIB

EA:RHMILLER

EA/LC:JDROSENTHAL

EA/EX:EECHAMPAGNE (DRAFT)

AID/EA:MR. GARDINER (DRAFT)

L/EA:MR. NORTON (DRAFT)

----- 023187

O R 271652Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY VIENTIANE IMMEDIATE

INFO AMEMBASSY BANGKOK

C O N F I D E N T I A L STATE 231008

E.O. 11652: GDS

TAGS: PFOR, EFIN, LA, US

SUBJECT: STATUS OF EMBASSY VIENTIANE'S BANK ACCOUNTS

REF: A. VIENTIANE 5743; B. VIENTIANE 4592; C. STATE 228352;

C. VIENTIANE 5750

1. WE AGREE THAT PROBLEM OF BLOCKED BANK ACCOUNTS IS A
SERIOUS ONE AND CONCUR WITH YOUR HANDLING OF IT SO FAR.
AS INDICATED REF C, YOU SHOULD CONTINUE TO PURSUE PROBLEM
WITH THE PGNU. ALTHOUGH WE NOTE (REF D) PGNU SAYS IT NOW
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IS "AUDITING" ONLY US ACCOUNTS, WE STILL SEE UTILITY IN

SEEKING COOPERATION TO EXTENT POSSIBLE OF OTHER EMBASSIES WHICH HAVE BEEN AFFECTED.

2. IF PGNU POSITION TURNS OUT IN FACT TO INCLUDE SEIZURE OF ALL OR PART OF ANY OF USG FUNDS IN ANY OF OUR ACCOUNTS, WE WILL OF COURSE HAVE TO CONSIDER OTHER MEASURES INCLUDING POSSIBLE RETALIATORY STEPS AGAINST LAO ASSETS HERE AS YOU SUGGEST. HOWEVER, IN REGARD TO BNL ACCOUNT, AS NOTED BELOW, THE PGNU APPEARS TO US TO HAVE A BASIS FOR ASSERTING A STRONG CLAIM TO AT LEAST SOME OF THE FUNDS THEREIN. YOU SHOULD THEREFORE REPORT FURTHER DEVELOPMENTS AND INDICATE TO THE PGNU YOU WILL HAVE TO REFER THEIR POSITION TO THE DEPARTMENT FOR ITS URGENT CONSIDERATION. YOU SHOULD BE PRE-

PARED TO CONTINUE TO FUNCTION EVEN IN FACE OF CONTINUED BLOCKING OF BNL ACCOUNT UNTIL WE HAVE A CHANCE TO FURTHER CONSIDER THE MATTER AND INSTRUCT YOU. WE AGREE THAT YOU SHOULD NOT RPT NOT OPEN A NEW ACCOUNT AT BNL.

3. INVESTIGATION HERE (INCLUDING CONSULTATIONS WITH MISS ANDERSON, MESSRS. CHAPMAN, LEECH, AND ROGAL) INTO THE QUESTION OF AID TRUST FUNDS MINGLED IN THE EMBASSY ACCOUNT AT BNL (REF A, PARA 3) LEADS US TO CONCLUDE PGNU MAY RPT MAY BE ENTITLED TO MAJOR PORTION OF THESE FUNDS (I.E. KIP 27,007,400 OF BALANCE SHOWN IN 72 FT 800 ACCOUNT). IT APPEARS TO US THAT THESE WERE FUNDS COMMITTED TO AID PROJECT ACTIVITIES AND LODGED IN BNL ACCOUNT AFTER CHAPMAN HANDED OVER TO THE LAO AT JUNE 28 MEETING A LETTER (ADDRESSED TO KHAM SING SAYAKONE, MINISTRY OF ECONOMY, AND SIGNED BY USAID ACTING DIRECTOR RAMSEY) INFORMING PGNU OF AVAILABILITY TO LAO OF THESE FUNDS. (REF B, PARA 2). LAST PARAGRAPH OF LETTER (COPY ON HAND IN AID FILES) STATES: "UPON PRESENTATION TO THE EMBASSY OF A WRITTEN REQUEST FROM THE PGNU, THE USDO AT THE EMBASSY WILL PRESENT TO WHOMEVER YOUR GOVERNMENT DESIGNATES A CHECK IN THE AMOUNT OF KIP 27,007,400 WHICH REPRESENTS THE TOTAL UNEXPENDED FUNDS REMAINING COMMITTED IN THE FIFTY-FIVE ACTIVITY PLAN PROJECTS". IT SEEMS TO US THAT THIS PART OF FUNDS IN TRUST IN BNL ARE PROBABLY THESE SAME FUNDS.

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4. SUM OF KIP 10,733,798 IN TRUST ACCOUNT (72 FT 800) REPRESENTS BALANCE OF FUNDS, ALSO OF USAID ORIGIN, USED TO PAY OFF CONTRACT COSTS, ETC., REMAINING AFTER JUNE 26TH USAID CLOSEOUT. THESE FUNDS WERE NOT OFFERED TO THE PGNU SINCE THEY WERE OF ADMINISTRATIVE OPERATING BUDGET NATURE, NOT ACTIVITIES (PROJECT) BUDGETS. IN THIS CONNECTION WE HAVE NOT BEEN ABLE TO FIND ANY TRACE OF A TRUST AGREEMENT GOVERNING TRUST FUNDS IN BNL BUT HAVE IN HAND A 1968 USAID

INTERNAL MEMORANDUM IN WHICH SUCH AN ACCOUNT WAS DISCUSSED AND A DECISION TAKEN TO OPERATE IT UNDER BILATERAL AGREEMENT OF 1951 AND WITHOUT A SPECIFIC TRUST AGREEMENT. YOU SHOULD BE AWARE THAT BECAUSE FUNDS ARE DESCRIBED AS "TRUST FUNDS" (I.E., HELD IN TRUST FOR LAOS AS BENEFICIARY) AND BECAUSE BILATERAL MAY GOVERN, THERE IS AT LEAST POSSIBILITY THAT LAOS COULD MAKE ARGUABLE CLAIM TO 10,733,798 KIP AS WELL.

5. WE ARE CLARIFYING SITUATION WITH GORDON RAMSEY, CURRENTLY AID REP IN SYRIA, TO BE CERTAIN OF THESE FACTS AND EVENTS. AS SOON AS WE HAVE RECEIVED ADVICE FROM HIM, WE WILL BE ABLE TO GIVE YOU INSTRUCTIONS WITH REGARD TO THE ABOVE USAID-RELATED PORTIONS OF THE ACCOUNT IN NBL. UNTIL THAT TIME, YOU SHOULD NOT IN ANY WAY CONCEDE PGNU RIGHT TO

THESE FUNDS. REMAINING BALANCE, OF COURSE, IS NOT USAID RELATED; PGNU HAS NO CLAIM TO THESE FUNDS.

6. THE PGNU'S RESTRICTING ACCESS TO OUR BANK OF INDOCHINA (BIC) ACCOUNT APPEARS TO BE A DISCRIMINATORY ACT WHICH WILL PROBABLY REQUIRE FURTHER PROTEST ONCE WE HAVE CLARIFIED NBL ACCOUNT SITUATION. PURCHASE OF KIP BY MEANS OF DOLLAR CHECK IS NOT A SATISFACTORY LONG-TERM SOLUTION; WE HAVE KIP IN BIC ACCOUNT FOR THE PURPOSE OF MEETING OUR PAYROLL, ETC. NEEDS AND SHOULD NOT HAVE TO BRING IN NEW FUNDS. IF INDEED THE OTHER EMBASSIES NOW HAVE ACCESS TO THEIR BIC ACCOUNTS, WE MUST BE ACCORDED EQUAL TREATMENT.

7. HOWEVER, IF BIC ACCOUNT PROBLEM IS NOT RESOLVED IN TIME TO MEET NEXT PAY PERIOD'S KIP REQUIREMENTS (OCT. 9) AND OTHER OPERATING NEEDS (I.E. RENTS DUE OCT. 1), WE ARE RELUCTANTLY PREPARED TO FOLLOW, TEMPORARILY AND UNDER CONFIDENTIAL

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PROTEST, THE ARRANGEMENT SOUKTHAVONE IMPLIED (REF C PARA 3) WE SEE THIS AS ADMINISTRATIVELY FEASIBLE FROM THIS END BUT NEED YOUR OWN VIEWS ON WHETHER AND FOR HOW LONG IT WOULD WORK. ALTERNATIVELY, YOU MIGHT CONSIDER PAYING OPERATING EXPENSES (NOT SALARIES) IN KIP CHECKS ON EXISTING ACCOUNTS. YOU COULD ALSO TELL SOUKTHAVONE YOU INTEND TO DO THIS, INSISTING ON USING OUR ACCOUNTS FOR THEIR INTENDED PURPOSES. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BLOCKED ASSETS, BANK ACCOUNTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE231008
Document Source: CORE
Document Unique ID: 00
Drafter: MHENDERSON:MHS
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750336-0384
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975099/aaaaahvw.tel
Line Count: 162
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 VIENTIANE 5743, 75 VIENTIANE 4592, 75 STATE 228352
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2003 by CunninFX>; APPROVED <24 NOV 2003 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: STATUS OF EMBASSY VIENTIANE'S BANK ACCOUNTS
TAGS: PFOR, EFIN, LA, US, PGNU
To: VIENTIANE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006